

APPENDIX III

SCPP DRAFT ACTION PLAN

Seabird-related Laws, Regulations and Authorities

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Federal Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
Endangered Species Act	NOAA (NMFS) DOI (USFWS)	All of the United States	Species designated as “threatened or endangered” under ESA	<p>“Take” of any listed species in the US or territorial waters. –16 USC 1538(a)</p> <p>“Take” defined to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” – 16 USC 1532(19)</p> <p>Prohibition against “take” extends to eggs. – 16 USC 1532(8)</p> <p>Regulatory definition of “harass” includes “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.” – 50 CFR 17.3</p> <p>Regulatory definition of “harm” includes “an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.” – 50 CFR 17.3</p>	Civil and criminal penalties for “taking” – 16 USC 1540

Federal Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
National Marine Sanctuaries Act (Monterey Bay National Marine Sanctuary)¹	NOAA - Monterey Bay National Marine Sanctuary	Within sanctuary boundaries	Marine mammals, sea turtles, or seabirds, whether endangered or not, located in the sanctuary	<p>Taking any marine mammal, sea turtle or seabird in or above the Sanctuary, except as permitted by regulations promulgated under the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. – 15 CFR 922.132</p> <p>“Take” or “taking” means: (1) For any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct; (2) For any other marine mammal, sea turtle, or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct. -15 CFR 922.132.3</p> <p>Flying motorized aircraft, except as necessary for valid law enforcement purposes, at less than 1000 feet above any of four zones described within the regulations. – 15 CFR 922.132</p> <p>Operating motorized personal water craft within the sanctuary except within four designated zones and access routes. – 15 CFR 922.132</p> <p>Possessing within the sanctuary (regardless of where taken, moved or removed from), except as necessary for valid law enforcement purposes, any</p>	<p>Civil penalties for violation of regulations, including “take.” – 16 USC 1437</p> <p>Criminal penalties only for interfering with enforcement. – 16 USC 1437</p>

¹ Please note that there may be proposed regulation changes with the release of the draft EIS for the Joint Management Plan Review in Fall 2006.

				historical resource, or any marine mammal, sea turtle or seabird taken in violation of regulations, promulgated under the MMPA, ESA or MBTA. – 15 CFR 922.132	
National Marine Sanctuaries Act (Gulf of the Farallones National Marine Sanctuary)¹	NOAA – Gulf of the Farallones National Marine Sanctuary	Within sanctuary boundaries	Marine mammals and seabirds, whether endangered or not, located within the sanctuary	<p>Disturbing seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one NM of the Farallon Islands, Bolinas Lagoon, or any ASBS except to transport persons or supplies to or from the Islands or for enforcement purposes. – 15 CFR 922.82</p> <p>Operation of motorized personal watercraft, except for the operation of motorized personal watercraft for emergency search and rescue mission or law enforcement operations (other than routine training activities) carried out by National Park Service, U.S. Coast Guard, Fire or Police Departments or other Federal, State or local jurisdictions. – 15 CFR 922.82</p>	<p>Civil penalties for violation of regulations, including “take.” – 16 USC 1437</p> <p>Criminal penalties only for interfering with enforcement. – 16 USC 1437</p>
Migratory Bird Treaty Act	Department of the Interior State Cooperators	All of the United States	Migratory birds, whether threatened or endangered or not	<p>Without a permit, pursuing, hunting, taking, capturing, killing, attempting to take, capture, or kill, possessing, offering for sale, selling, offering to barter, bartering, offering to purchase, purchasing, delivering for shipment, shipping, exporting, importing, causing to be shipped, exported, or imported, delivering for transportation, transporting or causing to be transported, carrying or causing to be carried, or receiving for shipment, transportation, carriage, or export a migratory bird. – 16 USC 703</p> <p>Prohibition extends to migratory birds, parts, nest, and eggs. – 16 USC 703</p>	<p>Misdemeanor to take without permit. – 16 USC 707</p> <p>Felony to knowingly take with intent to sell or barter without a permit. – 16 USC 707</p>

¹ Please note that there may be proposed regulation changes with the release of the draft EIS for the Joint Management Plan Review in Fall 2006.

Airborne Hunting Act	Department of the Interior State Cooperators	All of the United States	Birds, fish, and other animals	Use aircraft to harass any bird, fish, or other animal. – 16 USC 742j-1 Harass means to disturb, worry, molest, rally, concentrate, harry, chase, drive, herd, or torment. – 50 CFR 19.4	Violation is a misdemeanor crime. – 16 USC 742j-1
National Park Service Regulations of General Applicability	Department of the Interior – National Park Service (NPS)	All areas administered or managed by the NPS, including: Point Reyes National Seashore Muir Woods National Monument Golden Gate National Recreation Area Fort Point National Historic Site San Francisco Maritime National Historic Park	All wildlife	The taking of wildlife, except by authorized hunting and trapping activities conducted in accordance with NPS regulations. – 36 CFR 7.6, subsection 2.2. “Take” means to pursue, hunt, harass, harm, shoot, trap, net, capture, collect, kill, wound, or attempt to do any of the above. – 36 CFR 7.6, subsection 1.4. The feeding, touching, teasing, frightening or intentional disturbing of wildlife nesting, breeding or other activities. – 36 CFR 7.6, subsection 2.2. Allowing a pet to make noise that is unreasonable considering location, time of day or night, impact on park users, and other relevant factors, or that frightens wildlife by barking, howling, or making other noise. – 36 CFR 7.6, subsection 2.15. Operating or using aircraft on lands or waters other than at locations designated pursuant to special regulations. No such areas have been designated for the parks within the Seabird Colony Protection Program area. – 36 CFR 7.6, subsection 2.17	Violation of NPS regulations is a misdemeanor crime. – 36 CFR 7.6, subsection 1.3. Note: Park-specific regulations for parks within the project area contain no additional restrictions relevant to seabird colony protection.

Federal Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
Bureau of Land Management Regulations of General Applicability	Department of the Interior – Bureau of Land Management (BLM)	All public lands administered by BLM	All wildlife	<p>Operating an off-road vehicle in a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands. – 43 CFR 9268.3(a)(2)(vii)(D)</p> <p>Drive or operate a motorized vehicle or otherwise conduct oneself in a manner that may result in unnecessary frightening or chasing of people or domestic livestock and wildlife in undeveloped areas used for recreational purposes. – 43 CFR 9268.3(c)(2)(vi)</p>	Violation of the BLM land use regulations referenced above is a misdemeanor crime. – 43 CFR 9268.3(a)(4)
National Wildlife Refuge Regulations²	Department of the Interior – FWS – National Wildlife Refuge Program	<p>National Wildlife Refuges (NWR), including:</p> <p>San Pablo Bay NWR</p> <p>Don Edwards San Francisco Bay NWR</p> <p>Salinas River NWR</p> <p>Farallon NWR</p>	All wildlife	<p>Taking any member of the animal kingdom in a wild, unconfined state, whether alive or dead, including a part, product, egg, or offspring of the member. – 50 CFR 27.12</p> <p>Disturbing, injuring, spearing, poisoning, destroying, collecting or attempting to disturb, injure, spear, poison, destroy or collect any plant or animal on any national wildlife refuge is prohibited except by special permit. – 50 CFR 27.51</p>	Violation of a National Wildlife Refuge regulation is a misdemeanor crime. – 50 CFR 28.31, 16 USC 460k-3

² See California Fish and Game Code, Marine Protected Areas and Special Closures for information on a seasonal closure between March 15 and August 15 to vessel traffic within 300 feet of shoreline at specified portions of Southeast and North Farallon Islands.

State Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
California Endangered Species Act	State of California – Department of Fish and Game	State of California	Species designated by the State of California as threatened or endangered and located within the State	<p>Taking any species designated by the state as threatened or endangered without a permit. – CA Fish and Game Code, Section 2080</p> <p>“Take” is defined as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, capture, or kill. – CA Fish and Game Code, Section 86</p>	
California Game Refuge Statutes	State of California – Department of Fish and Game	State of California Game Refuges	Birds and mammals located within California Game Refuges	<p>Taking or possessing any bird or mammal, or part thereof, in any game refuge except as otherwise provided for by law or regulation. – CA Fish and Game Code, Section 10500</p> <p>Flying any aircraft less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less than 1,000 feet above water or land over the Ano Nuevo State Reserve, the Farallon Islands Game Refuge, the Point Lobos State Reserve, the California Sea Otter Game Refuge, and Anacapa, San Miguel, Santa Barbara, and San Nicolas Islands, except for rescue operations or pursuant to a permit. – CA Fish and Game Code, Section 10501.5</p> <p>“Take” is defined as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, capture, or kill. – CA Fish and Game Code, Section 86</p>	

State Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
California State Parks Regulations	State of California – Department of Parks and Recreation	State of California Parks, including: <ul style="list-style-type: none"> • Albany State Marine Reserve • Andrew Molera State Park • Angel Island State Park • Ano Nuevo State Park • Asilomar State Beach • Bean Hollow State Beach • Candlestick Point State Recreation Area • Carmel River State Beach • Carpinteria State Beach • Cayucos State Beach 	Birds and mammals located within California State Parks	Molesting, hunting, disturbing, harming, feeding, touching, teasing, or spotlighting any kind of animal or fish or attempting to do so unless specifically authorized by individual park regulations. – 14 CCR 4305	
California Fish and Game Code, Marine Protected Areas and Special Closures	State of California – Department of Fish and Game	Farallon Islands State Marine Conservation Area (This area is bounded by the mean high tide line and a distance of 1 nautical mile offshore Southeast Farallon		All vessels shall observe a five (5) nautical mile per hour speed limit within 1,000 feet of any shoreline in the reserve. CA Fish and Game section 632 (17)(C) From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline of any of the four islets comprising the North Farallons, including North Farallon, the Island of St. James and the two	

State Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
		and North Farallon Islands)		<p>unnamed islets located between them, in the vicinity of 37° 46' N. lat. 123° 06' W. long., except in the area beginning at a line extending due west magnetic from the northernmost point of land on North Farallon and continuing clockwise to a line drawn due west magnetic from the southernmost point of land on North Farallon and in the area beginning at a line drawn due west magnetic from the northernmost point of land on the northernmost of the two unnamed islets extending clockwise to a line drawn due south magnetic from the southernmost point of land on that islet. Game section 632 (17)(F)</p> <p>From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline in the area beginning at the south end of Jordan Channel, westward around Indian Head, then generally northward past Great Arch Rock, then generally following the shoreline to a line extending due west from the northernmost point of land on Sugarloaf Island or in the area from the east end of Mussel Flat, generally southward to the northeasternmost point of land on Saddle Rock (Seal Rock) then generally southwest along the northerly shoreline of Saddle Rock to the southwesternmost point of land on Saddle Rock and continuing generally northward to the west end of Mussel Flat, both areas at Southeast Farallon Island.</p> <p>CA Fish and Game section 632 (17)(G)</p>	

Federal Authority	Regulatory Bodies	Jurisdictional Area	Covered Species	Prohibited Activities	Penalties
Miscellaneous California Statutes and Regulations	State of California	State of California		<p>Taking, possessing, or needlessly destroying the nest or eggs of any bird, except as otherwise provided by the California Fish and Game Code (e.g., licensed hunting, etc.) – CA Fish and Game Code, Section 3503</p> <p>Taking or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act. – CA Fish and Game Code, section 3513</p>	